

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

WILLIE FULTON,

Petitioner,

v.

CIVIL ACTION NO. 5:06-cv-00010

CHARLES T. FELTS,

Respondent.

MEMORANDUM OPINION

Pending before the Court are Petitioner's Application to Proceed *in Forma Pauperis* [Docket 2] and Application Under 28 U.S.C. § 2241 for Writ of Habeas Corpus by a Person in State or Federal Custody [Docket 1]. By Standing Order entered on July 2, 2004, and filed in this case on January 6, 2006, this action was referred to United States Magistrate Judge R. Clarke VanDervort for submission of proposed findings and a recommendation (PF&R). Magistrate Judge VanDervort filed his PF&R [Docket 6] on December 19, 2008, recommending that this Court **DENY** Petitioner's application to proceed *in Forma Pauperis*, **DISMISS** as moot Petitioner's 2241 application, and remove this matter from the Court's docket.

The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo* review and Petitioner's right to appeal this Court's Order. *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*,

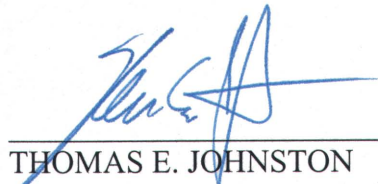
727 F.2d 91, 94 (4th Cir. 1984). Here, objections to Magistrate Judge VanDervort's PF&R were due by January 9, 2009, pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b). To date, no objections have been filed.*

Accordingly, the Court **ADOPTS** the PF&R [Docket 6] in its entirety, **DENIES** Petitioner's application to proceed *in Forma Pauperis* [Docket 2], and **DISMISSES** as moot Petitioner's Application under 28 U.S.C. § 2241 for Writ of Habeas Corpus by a Person in State or Federal Custody [Docket 1]. A separate Judgment Order will enter this day implementing the rulings contained herein.

IT IS SO ORDERED.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: January 20, 2009



THOMAS E. JOHNSTON
UNITED STATES DISTRICT JUDGE

* The Court notes that on December 12, 2008, the PF&R was returned to the Clerk's Office as undeliverable. Because Petitioner has not kept the Court apprised of his address, he has failed to comply with this Court's local rules. See LR Civ. P. 83.5 ("A *pro se* party must advise the clerk promptly of any changes in name, address, and telephone number.").